

<sup>1</sup> Plaintiff's original complaint [Docket #1] named eight state officials and the State of Oklahoma as defendants. His amended complaint [Docket #8], which superseded the original complaint, *see Davis v. TXO Production Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991), named only the State of Oklahoma, Governor Henry, and Attorney General Edmondson as defendants. Plaintiff has not served the State of Oklahoma.

Oklahoma received grants for Truth in Sentencing that were used for other purposes, and the Truth in Sentencing law has a disparate effect on the poor. The defendants allege the case fails under the doctrine of *Heck v. Humphrey*, 512 U.S. 477 (1994), and plaintiff has not sued anyone with the authority to give him the relief requested. The defendants also maintain plaintiff has completely failed to show that Oklahoma's laws are unconstitutional.

The court has carefully reviewed the record and construed plaintiff's pleadings liberally. *Haines v. Kerner*, 404 U.S. 519 (1972). To the extent plaintiff requests equitable relief in the form of release from confinement, however, a § 1983 cause of action is not the appropriate means for seeking such relief. Rather, habeas corpus is the exclusive remedy for a state prisoner challenging the fact or duration of his confinement when the relief sought includes immediate or speedier release. *Preiser v. Rodriguez*, 411 U.S. 475, 489-90 (1973). Therefore, the court finds plaintiff has failed to state a claim upon which relief can be granted.

**ACCORDINGLY**, the defendants' motion to dismiss [Docket #42] is GRANTED, and this action is, in all respects, DISMISSED for failure to state a claim upon which relief can be granted, pursuant to Fed. R. Civ. P. 12(b)(6).

**IT IS SO ORDERED** this 23rd day of September 2010.

  
James H. Payne  
United States District Judge  
Eastern District of Oklahoma